No. 95-1300

(2)

Supreme Court, U.S.
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In The

SUPREME COURT OF THE UNITED STATES

October Term, 1995

LLOYD V. CRAWFORD, III; EDIE CRAWFORD LLOYD; BARBARA CRAWFORD DAVIS,

Petitioners,

v.

JACK A. ROANE; FRED T. GROGAN, JR.; and JERALD M. DUNCAN, Trustees of the Pediatric Allergy Group Employees Retirement Plan and Money Purchase Pension Plan; LOUIS D. HAMRIC, Executor of the Estate of Lloyd V. Crawford, Jr.; BEVERLIE P. CRAWFORD,

Respondents.

On Petition for Writ of Certiorari
To The United States Court of Appeals
For the Sixth Circuit

BRIEF OF RESPONDENTS JACK A. ROANE, FRED T. GROGAN, JR., AND JERALD M. DUNCAN IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

JEF FEIBELMAN, Counsel of Record
SUSAN M. CLARK
BURCH, PORTER & JOHNSON, PLLC
130 N. Court Avenue
Memphis, TN 38103
901/523-2311
Attorneys for Respondents
Jack A. Roane, Fred T. Grogan, Jr., and Jerald M. Duncan

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BRIEF OF RESPONDENTS JACK A. ROANE, FRED T. GROGAN, JR., AND JERALD M. DUNCAN IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

I. STATEMENT OF FACTS

Petitioners have named as Respondents Jack A. Roane, Fred T. Grogan, Jr., and Jerald M. Duncan, members of the Pediatric Allergy Group, in their capacities as the Trustees of the Pediatric Allergy Group Employees' Money Purchase Pension Plan ("Plan"). The Trustees concur in Respondents' Statement of Facts to the extent that it correctly states that Lloyd V. Crawford, Jr., ("Decedent") was a Plan participant who began receiving pension benefits from the Plan prior to his death on March 13, 1992, and that Petitioners, his surviving children, filed a declaratory judgment action concerning the proper disposition of his benefits under the Plan.

The following additional facts are also relevant to this action. Prior to his death, Decedent did not designate a beneficiary of the Plan benefits. In such event, Section IX of the Plan directs the Trustees to pay Decedent's entire accrued benefit, in accordance with the method of payment specified in the Plan, to the deemed beneficiaries named in the Plan. The Plan specifically provides that the deemed beneficiary is the Decedent's spouse if she survives him. The surviving children of the decedent are the deemed beneficiaries only if the Decedent's spouse predeceases him. Defendant was survived by his wife, Respondent Beverlie P. Crawford.

Furthermore, the Plan at issue was approved by the Internal Revenue Service as a qualified, tax exempt plan under 26 U.S.C. §§ 401 and 501(a). As such, the Plan is required to provide for a Qualified Joint and Survivor Annuity ("QJSA") for the surviving spouse of a participant. Without the written waiver of

the QJSA by the participant and the spouse's written consent to the waiver, the Trustees must pay Plan benefits to a surviving spouse in the form of a QJSA. Decedent did not execute a waiver of the QJSA under the Plan nor did his spouse, Mrs. Crawford, consent to any such waiver.

Accordingly, following Decedent's death, the Trustees awarded the remaining benefits of the Decedent's Plan to Mrs. Crawford. Petitioners subsequently filed a claim with the Trustees for payment of Decedent's Plan benefits to them as the surviving children. The Trustees considered the claim filed by Petitioners and determined that, under both the terms of the Plan and applicable law, the sole beneficiary was Dr. Crawford's surviving spouse. The Trustees therefore denied the Petitioner's claim for benefits. This action followed that denial.

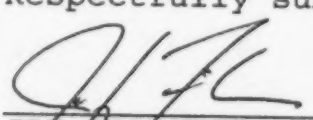
II. SUMMARY OF REASONS FOR DENYING THE WRIT

Respondent Beverlie P. Crawford has filed with the Court her Brief in Opposition to Petition for Certiorari, in which she addresses in detail the issues raised by the Petitioners in their Brief. Rather than repeat the arguments presented by Mrs. Crawford, the Trustees adopt the positions stated by Mrs. Crawford in her Brief and rely upon them in opposing the Petition.

III. CONCLUSION

For the reasons set forth in Respondent Beverlie P. Crawford's Brief in Opposition to Petition for Certiorari, the Trustees respectfully request that the Court deny the Petition for Writ of Certiorari.

Respectfully submitted,



JEF FELDBELMAN
SUSAN M. CLARK
BURCH, PORTER & JOHNSON, PLLC
130 N. Court Avenue
Memphis, Tennessee 38103
901/523-2311

Attorneys for Respondents
Jack A. Roane, Fred T. Grogan, Jr., and Jerald M. Duncan

CERTIFICATE OF SERVICE

I hereby certify that I have this day mailed, postage prepaid, a true and correct copy of the foregoing document to Lloyd V. Crawford III, Esq., 6409 Quail Hollow Road, Memphis, Tennessee 38120; William P. Kenworthy, Esq., Jill M. Steinberg, Esq., and Robbin Sarrazin, Esq., 165 Madison Avenue, 20th Floor, Memphis, Tennessee 38103; and Mark J. Grai, Esq., 6075 Poplar Avenue, Suite 220, Memphis, Tennessee 38119.

This 20th day of March, 1996.

JEF FEIBELMAN